

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Zhejiang Medicine Co., Ltd.,)
and)
ZMC-USA L.L.C.,)
) Civil Action No. 4:11-cv-1052 (VDG)
	Plaintiffs,
)
)
v.) JURY TRIAL DEMANDED
)
Kaneka Corporation,)
)
	Defendant.
)
)
)

STIPULATION

Plaintiffs Zhejiang Medicine Co., Ltd. and ZMC-USA L.L.C. (collectively “ZMC”) and Defendant Kaneka Corporation (“Kaneka”) (ZMC and Kaneka, collectively, the “Parties”) hereby agree and stipulate as follows:

1) The parties agree that the following discovery may occur after the close of discovery:

a) Kaneka may inspect ZMC’s facility in China in the January 11-15, 2014 time frame.

The sole purpose of the inspection is to determine the molar ratio of reduced coenzyme Q10 present during ZMC’s process for manufacturing oxidized coenzyme Q10. The parties will meet and confer to determine the exact duration and timing of the inspection.

b) ZMC’s representatives at the inspection will be permitted to observe the testing of the samples, which will be conducted on site.

c) Kaneka agrees that if all of its results show a molar ratio of less than 70 mole % reduced coenzyme Q10, it will stipulate that ZMC’s process does not infringe. For avoidance of doubt, even if the results are equal to or greater than 70 mole %, ZMC does not concede that any limitations of the ‘340 patent are met by ZMC’s process, and reserves the right to advance any

and all grounds of non-infringement available to ZMC, including, but not limited to, absence of the claimed 70%, sealed tank, and inert gas atmosphere limitations.

d) If any of Kaneka's results are equal to or greater than 70 mole %, Kaneka may then supplement its expert reports solely to address the molar ratio of reduced coenzyme Q10 present in ZMC's process for manufacturing oxidized coenzyme Q10, and no other issue. Any supplemental expert report should be submitted by Kaneka within 20 calendar days of the conclusion of the inspection. ZMC may then, if it wishes, submit its own test results, and/or serve supplemental expert reports solely to address the molar ratio of reduced coenzyme Q10 present in ZMC's process for manufacturing oxidized coenzyme Q10, and no other issue. Any additional testing done by ZMC relating to the molar ratio of reduced coenzyme Q10 present in ZMC's process for manufacturing oxidized coenzyme Q10 will be provided along with ZMC's supplemental expert reports, which shall be submitted 20 calendar days after Kaneka's supplemental expert reports.

e) Expert discovery on any supplemental expert report that may be submitted in accordance with section 1(d) of this Stipulation.¹

Dated: October 16, 2013

Respectfully submitted,

Of Counsel

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¹ The parties will file an agreed motion with the Court seeking to adjust the dates in the Supplemental Scheduling Order [Dkt. No. 100] that may be affected by this Stipulation.

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*Signed by Permission

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CERTIFICATE OF SERVICE

I certify that on the 16th day of October, 2013, a true and correct copy of the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Robert M. Bowick

Robert M. Bowick